

MDR Tracking Number: M5-05-0324-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 9-22-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, electrical stimulation, durable medial equipment, manual therapy technique, therapeutic procedures, neuromuscular reeducation and ultarsound from 1-26-04 through 2-6-04 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c); in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 1-26-04 through 2-6-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 29th day of November 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

November 19, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-0324-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 32 year-old male who sustained a work related injury on ----- . The patient reported that while at work he injured his head, right side, cervical spine, right shoulder, and lumbar spine when he fell from his truck, approximately 5 ft. off the ground. The patient underwent an MRI of the right shoulder on 1/7/04 that showed tendonitis at the supraspinatus component of the rotator cuff tendon. A MRI of the cervical spine performed on 5/13/04 revealed a 2mm diffuse bulge at C3-4, C5-6, C6-7 with congenital fusion at C4-5. The patient underwent an EMG on 3/25/03 that demonstrated cervical radiculopathy affecting the right C6 nerve root. Diagnoses for this patient's condition has included cervical IVD syndrome with radiculitis, internal derangement of the right shoulder, myofascial pain syndrome, posttraumatic cephalgia, left knee derangement, and lumbar sprain/strain. Treatment for this patient's condition has included therapeutic procedures, manual therapy, durable medical equipment and active therapy.

Requested Services

Office visit, electrical stimulation, durable medical equipment, manual therapy technique, therapeutic procedures, neuromuscular reeducation, office visit, and ultrasound from 1/26/04 through 2/6/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Position Statement (no date)
2. MRI reports 1/7/04
3. Subsequent Medical Report 2/10/04, 12/10/03, 10/24/03
4. Daily Progress Notes 1/6/04 - 2/6/04

Documents Submitted by Respondent:

1. Peer Review 3/12/04, 4/27/04, 7/29/04
2. Impairment Evaluation Report 7/9/04
3. EMG/NCV report 1/25/04
4. Subsequent Medical Report 2/10/04
5. Daily Progress Notes 11/3/03 – 5/7/04
6. MRI report 4/12/04

Decision

The Carrier's denial of authorization for the requested services is overturned.

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 32 year-old male who sustained a work related injury on -----The ----- chiropractor reviewer indicated that the patient had a mild disc bulge, tendonitis of the shoulder, lumbar strain and an abnormal EMG study. The ----- chiropractor reviewer explained that due to the multiple trauma sites, a longer period of conservative care is reasonable and medically necessary (12-16 weeks). The ----- chiropractor reviewer noted that the patient made good progress at the beginning of care but that his progress began to slow towards the end and manipulations were stopped pending an orthopedic review. Therefore, the ----- chiropractor consultant concluded that the office Visit, electrical stimulation, durable medical equipment, manual therapy technique, therapeutic procedures, neuromuscular reeducation, office visit, and ultrasound from 1/26/04 through 2/6/04 were medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department